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12 Bank of America, National Association
(erroneously sued as "Bank of America")

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15

16 RICHARD ADAME, CONNIE G.
BENDER, and CONSTANCE DAVIS

17 Plaintiff,

18 v.

19 BANK OF AMERICA, NATIONAL
20 ASSOCIATION (erroneously sued as
"Bank of America")

21 Defendant.
22

Case No. CV 09-0129 SI

**STIPULATION AND [PROPOSED] ORDER
GRANTING PLAINTIFFS' LEAVE TO FILE
FIRST AMENDED COMPLAINT**

Pursuant to Local Rule 6-2, the Parties hereto, and their undersigned counsel, hereby stipulate as follows:

WHEREAS on February 4, 2009, the Parties stipulated to allow Defendant Bank of America, National Association an extension of fifteen (15) days, until February 20, 2009, to file a response to the Complaint;

WHEREAS the Parties have conferred and agreed that certain portions of the Complaint should be modified – namely portions of the Complaint relating to the fourth, fifth and eighth claims for relief;

WHEREAS the Parties have also agreed that it would be a waste of resources for Defendant Bank of America, National Association to file a responsive pleading to the Complaint if a First Amended Complaint will be submitted pursuant to stipulation;

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

1. That leave should be granted for Plaintiffs to file a First Amended Complaint;
2. That should the Court approve this Stipulation and grant Plaintiffs leave to file a First Amended Complaint, Defendant Bank of America, National Association shall have twenty (20) days after the First Amended Complaint is filed in which to file a responsive pleading;
3. That should the Court deny leave to file the proposed First Amended Complaint, Defendant Bank of America, National Association will have twenty (20) days from the date of the Court's order denying leave in which to file a responsive pleading to the Complaint.

Dated: February 20, 2009

J. GARY GWILLIAM
RANDALL E. STRAUSS
GWILLIAM, IVARY, CHIOSSO, CAVALLI &
BREWER

By: 

Randall E. Strauss
Attorneys for Plaintiffs
Richard Adame, Connie G. Bender
and Constance Davis

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STIPULATION RE GRANTING LEAVE TO FILE FIRST
AMENDED COMPLAINT, U.S.D.C., N.D. Cal. CV 09-0129

1 Dated: February 19, 2009

2 PATRICIA K. GILLETTE
3 KATINA B. MINER
4 ORRICK, HERRINGTON & SUTCLIFFE LLP

5 By: Patricia Gillette
6 Patricia K. Gillette
7 Attorneys for Defendant
8 Bank of America, National Association

9 **ORDER**

10 Pursuant to the stipulation set out above, Plaintiffs are given leave to file a First Amended
11 Complaint. ← within 15 days
12 Defendant Bank of America, National Association must file its responsive pleading within
13 ten (10) days of the filing of the Third Amended Complaint.

14 IT IS SO ORDERED.

15 Dated: February __, 2009

16 Hon. Susan Illston

17 Susan Illston
18 UNITED STATES DISTRICT JUDGE